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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/527,920

03/17/2000

Mark Scott

2534.0060003

3032

26111

7590

04/23/2007

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
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EXAMINER

NGUYEN, PHUONGCHAU BA

ART UNIT

PAPER NUMBER

2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/527,920	Applicant(s) SCOTT ET AL.	
	Examiner Phuongchau Ba Nguyen	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-19, 22-34, 40-53, 56-64, 67-68, 74-87, 90-98, 101-105 is/are pending in the application.
- 4a) Of the above claim(s) 1-5, 20, 21, 35-39, 54, 55, 65, 66, 69-73, 88, 89 and 100 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-17, 19, 25, 27-30, 40-44, 46-51, 53, 74-85 and 87 is/are allowed.
- 6) ☒ Claim(s) 90-98 is/are rejected.
- 7) ☐ Claim(s) is/are objected to.
- 8) ☐ Claim(s) are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u> </u> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u> </u> | 6) <input type="checkbox"/> Other: <u> </u> |

Final on Restriction

1. Applicant's election with traverse of Restriction in the reply filed on Nov 19, 2003 is acknowledged. The traversal is on the ground(s) that the restricted claims would be searched in the same area. This is not found persuasive because since the elected invention I (combination) is directed to a gateway for connecting between different networks to transfer voice over packet-switched network. And the invention II (subcombination) is drawn to determining the usage cost for a particular telephone set or the cost to a subscriber wherein a service provider utilizes a computer software or program in determining the cost of a telephone service provided to a subscriber, i.e., "an application layer includes application services"(claim 6) for "determining the cost to apply to each call"(claim 11); invention III (subcombination) is drawn to ordering routes by "checking the quality of service of a route and cost estimate of a route"(claim 31); invention IV (subcombination) is drawn to prioritizing routes by "determining a reduced route and comparing a requested route with the reduced route"(claim 32).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

The requirement is still deemed proper and is therefore made FINAL.

2. This application contains claims 1-5, 20-21, 35-39, 54-55, 65-66, 69-73, 88-89, 100 drawn to an invention nonelected with traverse in Paper filed. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 90-98 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed subject matter "computer program product" is directed toward a software program per


se. Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process nor apparatus. On the other hand, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.


Allowable Subject Matter

5. Claims 6-17, 19, 25, 27-30, 40-44, 46-51, 53, 74-85, 87 are allowed over the prior art.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuongchau Ba Nguyen whose telephone number is 571-272-3148. The examiner can normally be reached on Monday-Friday from 10:00 a.m. to 6:00 p.m..

phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Phuongchau Ba Nguyen
Examiner
Art Unit 2616


HUY D. VU
SUPERVISORY PATENT EXAMINER
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